

By: Thompson of Harris

H.B. No. 2339

A BILL TO BE ENTITLED

AN ACT

relating to trade-in credit agreements offered in connection with certain motor vehicle retail installment contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 348.001, Finance Code, is amended by adding Subdivision (11) to read as follows:

(11) "Trade-in credit agreement" means a contractual arrangement under which a retail seller agrees to provide a specified amount as a vehicle trade-in credit for diminished value of that vehicle in the event the vehicle is damaged, but not rendered a total loss, as a result of a collision accident, with the credit to be applied to the purchase or lease of a different vehicle from that retail seller. A trade-in agreement is a separate agreement from the retail installment contract and is not a term of the retail installment contract.

SECTION 2. Section 348.005, Finance Code, is amended to read as follows:

Sec. 348.005. ITEMIZED CHARGE. An amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees for registration, certificate of title, and license and any additional registration fees charged by a full service deputy under Section 520.008, Transportation Code.

(2) any taxes;

1           (3) fees or charges prescribed by law and connected  
2 with the sale or inspection of the motor vehicle; and

3           (4) charges authorized for insurance, service  
4 contracts, warranties, automobile club memberships, trade-in  
5 credit agreements, or a debt cancellation agreement by Subchapter  
6 C.

7           SECTION 3. Subchapter B, Chapter 348, Finance Code is  
8 amended by adding Section 348.125 to read as follow:

9           Sec. 348.125. TRADE-IN CREDIT AGREEMENT OFFERED IN  
10 CONNECTION WITH RETAIL INSTALLMENT CONTRACT. (a) A retail seller  
11 may, at the time a retail installment contract is executed, offer to  
12 sell to the retail buyer a trade-in credit agreement or similarly  
13 named agreement.

14           (b) A trade-in credit agreement is not considered an  
15 insurance product.

16           (c) To ensure the faithful performance of a retail seller's  
17 obligations to the retail buyer under a trade-in credit agreement,  
18 the retail seller must be insured under a contractual liability  
19 reimbursement policy approved by the commissioner of insurance,  
20 issued for the benefit of Texas residents.

21           (d) In addition to other disclosures required by state or  
22 federal law, the retail seller shall give the retail buyer a copy of  
23 the written trade-in agreement and written notice at the time the  
24 retail installment contract is executed that the retail buyer:

25           (1) is not required to purchase the trade-in credit  
26 agreement as a condition for approval of the contract;

27           (2) is entitled to cancel the trade-in credit

1 agreement and receive full refund before the 31st day after the date  
2 the contract is executed;

3 (3) is able to terminate the trade-in agreement at any  
4 time after the 30th day after the date the contract is executed and  
5 receive a pro-rata refund less any applicable cancellation fee  
6 which may not exceed \$50; and

7 (4) has been provided a clear and concise disclosure  
8 as to the amount of the credit available during the term of the  
9 trade-in credit agreement.

10 (e) The amount charged for a trade-in credit agreement made  
11 in connection with a retail installment contract may not exceed  
12 five percent of the cash price of the vehicle that is the subject of  
13 the retail installment contract, including any attached  
14 accessories and excluding the price of services related to the  
15 sale, the price of service contracts, taxes, and fees for license,  
16 title, and registration.

17 (f) A trade-in credit agreement shall require the retail  
18 buyer to provide proof of insurance settlement documents in order  
19 to obtain a credit. A trade-in credit agreement may not require the  
20 retail buyer to provide any other documentation in order to obtain a  
21 credit.

22 (g) If a retail seller enters a trade-in credit agreement  
23 with a retail buyer, then the retail seller must comply with the  
24 terms of the trade-in agreement in connection with the purchase or  
25 lease of a subsequent motor vehicle. A retail seller must provide  
26 any credit required under a trade-in credit agreement at the time of  
27 the purchase or lease of a subsequent motor vehicle.

1        (h) The benefit to be provided in connection with a trade-in  
2 credit agreement must bear a reasonable relationship to the amount  
3 charged for the agreement and the amount, term, and conditions of  
4 the retail installment contract.

5        SECTION 4. Sections 348.208 (b) and (c), Finance Code, are  
6 amended to read as follows:

7        (b) A retail installment contract may include as a separate  
8 charge an amount for:

9            (1) motor vehicle property damage or bodily injury  
10 liability insurance;

11            (2) mechanical breakdown insurance;

12            (3) participation in a motor vehicle theft protection  
13 plan;

14            (4) insurance to reimburse the retail buyer for the  
15 amount computed by subtracting the proceeds of the buyer's basic  
16 collision policy on the motor vehicle from the amount owed on the  
17 vehicle if the vehicle has been rendered a total loss;

18            (5) a warranty or service contract relating to the  
19 motor vehicle;

20            (6) an identity recovery service contract; ~~or~~

21            (7) a debt cancellation agreement if the agreement is  
22 included as a term of a retail installment contract under Section  
23 348.124; or

24            (8) a trade-in credit agreement.

25        (c) Notwithstanding any other law, service contracts, ~~and~~  
26 debt cancellation agreements, and trade-in credit agreements sold  
27 by a retail seller of a motor vehicle to a retail buyer are not

1 subject to Chapter 101 or 226, Insurance Code.

2 SECTION 5. This Act takes effect September 1, 2017.